



DAN MORALES  
ATTORNEY GENERAL

Office of the Attorney General  
State of Texas

January 9, 1991

Ms. Iris J. Jones  
City Attorney  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767-8828

OR91-023

Dear Ms. Jones:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 9704.

You have requested our decision as to the confidentiality of a letter in which the chief of police of the city of Austin informed the director of the city's civil service commission that a police officer was being disciplined for misconduct. You indicate that "the detailed description of this officer's conduct is extraordinarily embarrassing," and that "[t]he officer's privacy interests are implicated by the present request."

Personnel file information is confidential under section 3(a)(2) of the Open Records Act if its release would cause an invasion of privacy under the test articulated for section 3(a)(1) of the act. Hubert v. Harte-Hanks Texas Newspapers, 652 S.W.2d 546, 550 (Tex. App. - Austin 1983, writ ref'd n.r.e.). Information may be withheld under section 3(a)(1) if it consists of or contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. Industrial Found. of the South v. Texas Indus. Accident Bd., 540 S.W.2d 668, 683-85 (Tex. 1976), cert. denied, 430 U.S. 931 (1977).

This office has said that "[a] public employee's job performance does not generally constitute private affairs." Open Records Decision No. 470 (1987). Furthermore, the public has a legitimate interest in the job qualifications and performance of public employees. Id.; see also, Open Records Decision No. 579 (1990). There is no doubt that the

description of the conduct for which this officer was disciplined reveals highly intimate and embarrassing information. Nevertheless, we cannot say here that the second part of the IAB privacy test has been satisfied. The public ordinarily has a legitimate interest in knowing the details of the conduct for which a public employee is disciplined, particularly where, as here, no other person's privacy interests are implicated. A police officer voluntarily subjects himself to intense public scrutiny merely by virtue of his accepting employment as a police officer. In our opinion, the letter from the chief of police to the director of the civil service commission must be disclosed in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-023.

Yours very truly,



Rick Gilpin, Chief  
Opinion Committee

RG/le

Ref.: ID# 9704

cc: Ginny E. Campa  
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